

To: House Member/Senator

December 3, 2002

From: Pemigewasset River Local Advisory Committee

Subj: Legislative Action on Instream Flow Rules

On behalf of the Pemigewasset River Local Advisory Committee (PRLAC), I am writing to express my deep concern about long delayed legislative action on Instream Flow Rules (ISFR). It is already clear that totally unrestricted commercial/municipal water withdrawals from our rivers/lakes is not sustainable long term. NH's rapidly expanding population, commercial development, and changing weather patterns are combining to force us to manage existing supplies more intelligently. The water wars prevalent in other parts of the country can/will visit NH unless steps are taken to formally install a water withdrawal management plan, applicable to all lakes and rivers.

History – In 1990, the NH legislature passed a bill requiring the NH Department of Environmental Services (DES) to develop rules governing the protection of instream flow on rivers designated in the state's Rivers Management and Protection Program (RMPP). The rules provide one of the key protections under the RMPP. Twelve years after passage of the requirement for the rules, however, *they remain a goal rather than a reality*.

Objective – The intent is that each stream, river, and lake in NH would have the minimum instream flows essential to sustain all critical ecological functions and habitat. This minimum would be determined scientifically.

How the Rules Work – Instream Flow Rules create a procedure for establishing protected flows specific to each river in the RMPP. The proposed rules require a phased-in reduction of water use as flow decreases. During low flow/drought situations, large water users (>20,000 gallons per day) would be asked to manage their withdrawals according to severity of conditions. Some water would always be available even when flows reached once-in-10 year lows.

Management of instream flows evolves from the public trust doctrine. It holds that government must act as a fiduciary in its management of the resources (rivers, streams, lakes). The beneficiaries of the trust are the citizens of the state, including future generations. Like all complex issues, sensible management of water consumption is best dealt with in advance of a crisis. This issue has been sidelined 12 years. It is expected to take 4-5 years to complete pilot studies on the Lamprey and Souhegan Rivers – if the pilot studies are funded now. Given this complex river-by-river approach, it could take 20 years for all NH rivers to have effective drought management plans. The years of inaction have created tensions that could well result in court involvement, with all its attendant frustrations.

We realize that competition for state funds is likely to be stronger than ever this year, but funding of DES' pilot studies on the Lamprey and Souhegan Rivers must finally be given top priority. Please support the DES effort to develop a real solution to a problem all of us are very concerned about. Thank You.

Max Stamp, Chairman of PRLAC

